

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director/(954) 797-1101

SUBJECT: Quasi Judicial Hearing: Variance
V 4-3-02 Ghasem Khavanin/John M. Hicks, 13301 SW 36 Court
Generally located on the north side of SW 36 Court, approximately 700 feet east of SW 136 Avenue, within the Hicks Estates subdivision.

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM:

V 4-3-02 Khavanin/Hicks, 13301 SW 36 Court (A-1)

REPORT IN BRIEF:

The petitioner has requested to reduce the subject site's minimum rear yard setback from 40' to 26' in order to construct a detached garage in a location that allows a stand of mature live oak trees to remain undisturbed.

The subject site is 3.66 acres (159,604.06 square feet), vacant, and zoned A-1, Agricultural District. The Code requires 35' front yards, 25' side yards, and 40' minimum rear yards in this district. A stand of mature live oak trees and pond occupy approximately 2 acres of the site. The trees and pond are located within the buildable area of the site. Relocation and/or mitigation of trees while permissible, is not necessarily possible because of their maturity, or the ideal solution, as the preservation of natural features is desirous.

PREVIOUS ACTIONS: None

CONCURRENCES: At the June 12, 2002, meeting of the Planning and Zoning Board, Mr. Waitkus made a motion, seconded by Ms. Turin to approve with the following stipulations 1) that a "4-Hour" fire rating dry wall be used for walls and ceiling; and 2) for noise prevention, that there be an eight inch separation between the dry wall and concrete block insulation (Motion carried 5-0).

FISCAL IMPACT: None

RECOMMENDATION(S): Staff recommends that the subject report, on the variance petition, be reviewed and discussed by Town Council so that a final decision may be rendered.

Attachment(s): Justification letter, Survey, Site plan, Future Land Use Map, Zoning and Aerial Map

Application #: V 4-3-02
Exhibit "A"

Revisions:
Original Report Date: 7/5/2002

TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation

APPLICANT INFORMATION

Owner:

Name: John M. Hicks
Address: 2750 SW 121 Avenue
City: Davie, FL 33330
Phone: (954)370-1088

Agent:

Name: Ghasem Khavanin
Address: 11900 SW 11 Court
City: Davie, FL 33325
Phone: (954)931-3401

BACKGROUND INFORMATION

Date of Notification: June 5, 2002 **Number of Notifications:** 4

Application History: No deferrals have been requested.

Application Request: Variance **FROM:** Section 12-81A of the Land Development Code which requires 40 foot minimum rear yards in the A-1, Agricultural District; **TO:** reduce the minimum rear yard to 26 feet. This request has been made in order to construct a detached garage in a location that allows mature live oak trees to remain undisturbed.

Address/Location: 13301 SW 36 Court/Generally located on the north side of SW 36 Court, approximately 700 feet east of SW 136 Avenue, within the Hicks Estates subdivision.

Future Land Use Plan Designation: Residential (1 DU/AC)

Zoning: A-1, Agricultural District

Existing Use: Vacant

Proposed Use: Single family dwelling with detached garage

Parcel Size: 3.66 acres (159,604.06 square feet)

Surrounding Uses:
North: Flamingo ESL Site
South: Single family dwelling site

Surrounding Land
Use Plan Designation:
Residential (1 DU/AC)
Residential (1 DU/AC)

East:	Flamingo ESL Site	Conservation
West:	Single family dwelling site	Residential (1 DU/AC)

Surrounding Zoning:

North:	RS, Recreation/Open Space District
South:	A-1, Agricultural District
East:	RS, Recreation/Open Space District
West:	A-1, Agricultural District

ZONING HISTORY

Related Zoning History: None

Previous Request on same property:

The plat, P 3-1-00 Hicks Estates, was approved on September 6, 2000.

APPLICATION DETAILS

The petitioner has requested to reduce the subject site's minimum rear yard setback from 40' to 26' in order to construct a detached garage in a location that allows a stand of mature live oak trees to remain undisturbed.

Applicable Codes and Ordinances

Section 12-81A of the Land Development Code requires minimum: 35,000 square foot lot area, 125' lot frontage, 35' front yards, 25' side yards, and 40' minimum rear yards in the A-1, Agricultural District.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 2. Planning Area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 113.

Applicable Goals, Objectives and Policies: *Future Land Use Policy 17-7:* Adopted land development regulations shall continue to set forth setbacks or separation regulations, landscaping requirements, and minimum open space criteria to enhance living environments.

Staff Analysis

The subject site is 3.66 acres (159,604.06 square feet), vacant, and zoned A-1, Agricultural District. The

Code requires 35' front yards, 25' side yards, and 40' minimum rear yards in this district. A stand of mature live oak trees and pond occupy approximately 2 acres of the site. The trees and pond are located within the buildable area of the site. Relocation and/or mitigation of trees while permissible, is not necessarily possible because of their maturity, or the ideal solution, as the preservation of natural features is desirous.

Findings of Fact

Variances:

Section 12-309(B)(1):

The following findings of facts apply to the variance request.

(a) There are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the same district, and that said circumstances or conditions are not such that the strict application of the provisions of this chapter would not deprive the application of the reasonable use of such land or building for which the variance is sought, and that alleged hardship is self-created by any person having an interest in the property.

The subject site has special circumstances because it contains a stand of mature live oak trees, and is bound by the Flamingo ESL Site on the north and east. The conditions are unique and do not apply generally to land in the district. These circumstances, however, are not such that the strict application of the district setbacks would deprive reasonable use of the land. The permitted use of the subject site is a single family dwelling, and this can be achieved without the granting of a variance. Furthermore, the size of the detached garage could be reduced in size to meet the district setbacks.

(b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is not the minimum variance that will accomplish this purpose.

The applicant can achieve reasonable use of the land without a variance, and as such the variance is not the minimum needed.

(c) Granting of the requested variance will not be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The intent of the 40' rear yard setback required by the Land Development Code is for the consistent placement of structures and to maintain openness provided by the minimum separation between structures, within the A-1, Agricultural District. The intent of the Code is also to allow freedom in design to achieve the permitted use of the land, and this can be accomplished without a variance. Granting of the request will not be injurious to the neighborhood or detrimental to the surrounding area as the area impacted the most by the request is the Flamingo ESL Site.

Staff Recommendation

Staff recommends that the subject report, on the variance petition, be reviewed and discussed by the

Planning and Zoning Board and Town Council so that a recommendation and final decision may be rendered.

Planning & Zoning Board Recommendation

At the June 12, 2002, meeting of the Planning and Zoning Board, Mr. Waitkus made a motion, seconded by Ms. Turin to approve with the following stipulations 1) that a “4-Hour” fire rating dry wall be used for walls and ceiling; and 2) for noise prevention, that there be an eight inch separation between the dry wall and concrete block insulation (Motion carried 5-0).

Exhibits

1. Justification letter
2. Survey
3. Site plan
4. Future Land Use Map
5. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____

GHASEM KHAVANIN P.E.
11900 S.W. 11 CT.
DAVIE FLA. 33325
PHONE (954) 931-3401

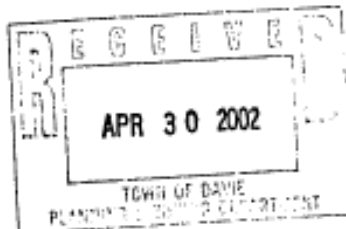
Date: April 10, 2002

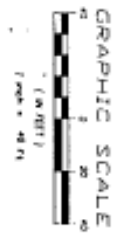
THIS IS AN ATTEMPT TO SAVE THREE (3) EXISTING LIVE OAKS TREES LOCATED AT LOT 5 OF HICKS ESTATES PLAT. THESE TREES ARE OVER 100 YEARS OLD, TWO OF THEM HAVE 8' DIAMETER AND THIRD ONE IS 10' IN DIAMETER.

THIS VARIANCE IS NECESSARY FOR REASONABLE USE OF THE LAND TO SAVE THESE TREES AND IT IS A MINIMUM VARIANCE THAT WILL ACCOMPLISH THIS PURPOSE.

SECTION 12-81 TABLE 12-81A REQUIRED REAR SET BACK TO BE 40' WHERE WE HAVE A SET BACK OF 26.00' ALONG EASTERN PROPERTY LINE.

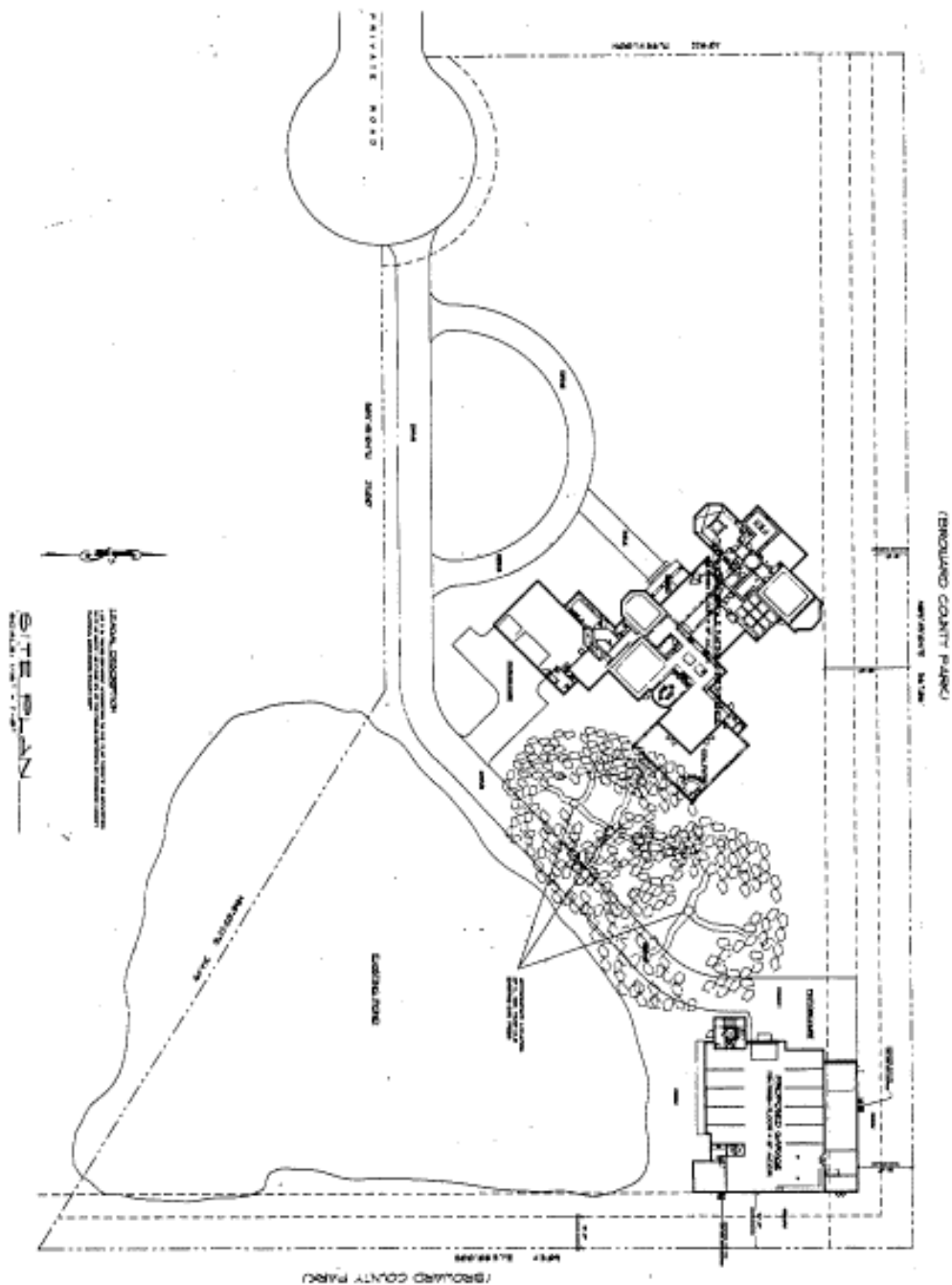
EXISTING PROPERTY LOCATED ON EAST AND NORTH OWN BY BROWARD COUNTY AND BEEN DESEGNETED TO BE USE AS OPEN SPACE / RECREATION PARK AND MAXIMUM OF 14 IN REAR WILL NOT HAVE NEGATIVE IMPACT TO THE NEIGHBORHOOD OR OTHERWISE DETERMENTAL TO THE PUBLIC WELFARE.





LEGEND

1. 1/2" = 1'00"	2. 1/4" = 1'00"	3. 1/8" = 1'00"	4. 1/16" = 1'00"
5. 1/32" = 1'00"	6. 1/64" = 1'00"	7. 1/128" = 1'00"	8. 1/256" = 1'00"
9. 1/512" = 1'00"	10. 1/1024" = 1'00"	11. 1/2048" = 1'00"	12. 1/4096" = 1'00"
13. 1/8192" = 1'00"	14. 1/16384" = 1'00"	15. 1/32768" = 1'00"	16. 1/65536" = 1'00"
17. 1/131072" = 1'00"	18. 1/262144" = 1'00"	19. 1/524288" = 1'00"	20. 1/1048576" = 1'00"
21. 1/2097152" = 1'00"	22. 1/4194304" = 1'00"	23. 1/8388608" = 1'00"	24. 1/16777216" = 1'00"
25. 1/33554432" = 1'00"	26. 1/67108864" = 1'00"	27. 1/134217728" = 1'00"	28. 1/268435456" = 1'00"
29. 1/536870912" = 1'00"	30. 1/1073741824" = 1'00"	31. 1/2147483648" = 1'00"	32. 1/4294967296" = 1'00"
33. 1/8589934592" = 1'00"	34. 1/17179869184" = 1'00"	35. 1/34359738368" = 1'00"	36. 1/68719476736" = 1'00"
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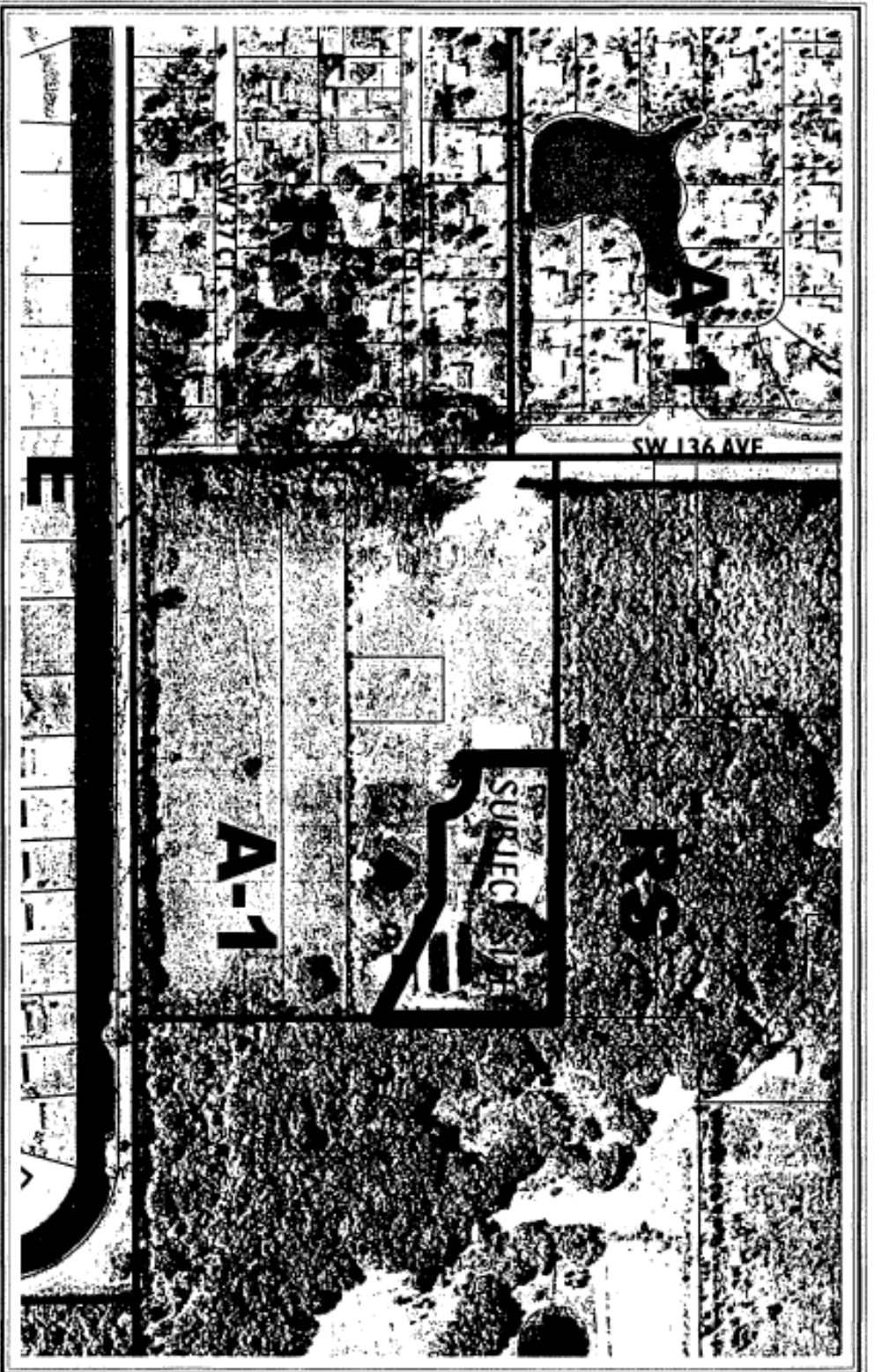
A-2

**RANDALL
STOFFT
ARCHITECTS**

HICKS RESIDENCE
LOT 5, HICKS ESTATES
DAVE, FLORIDA

Revisions	By	Date

Revisions	By	Date



PETITION NUMBER: V 4-3-02

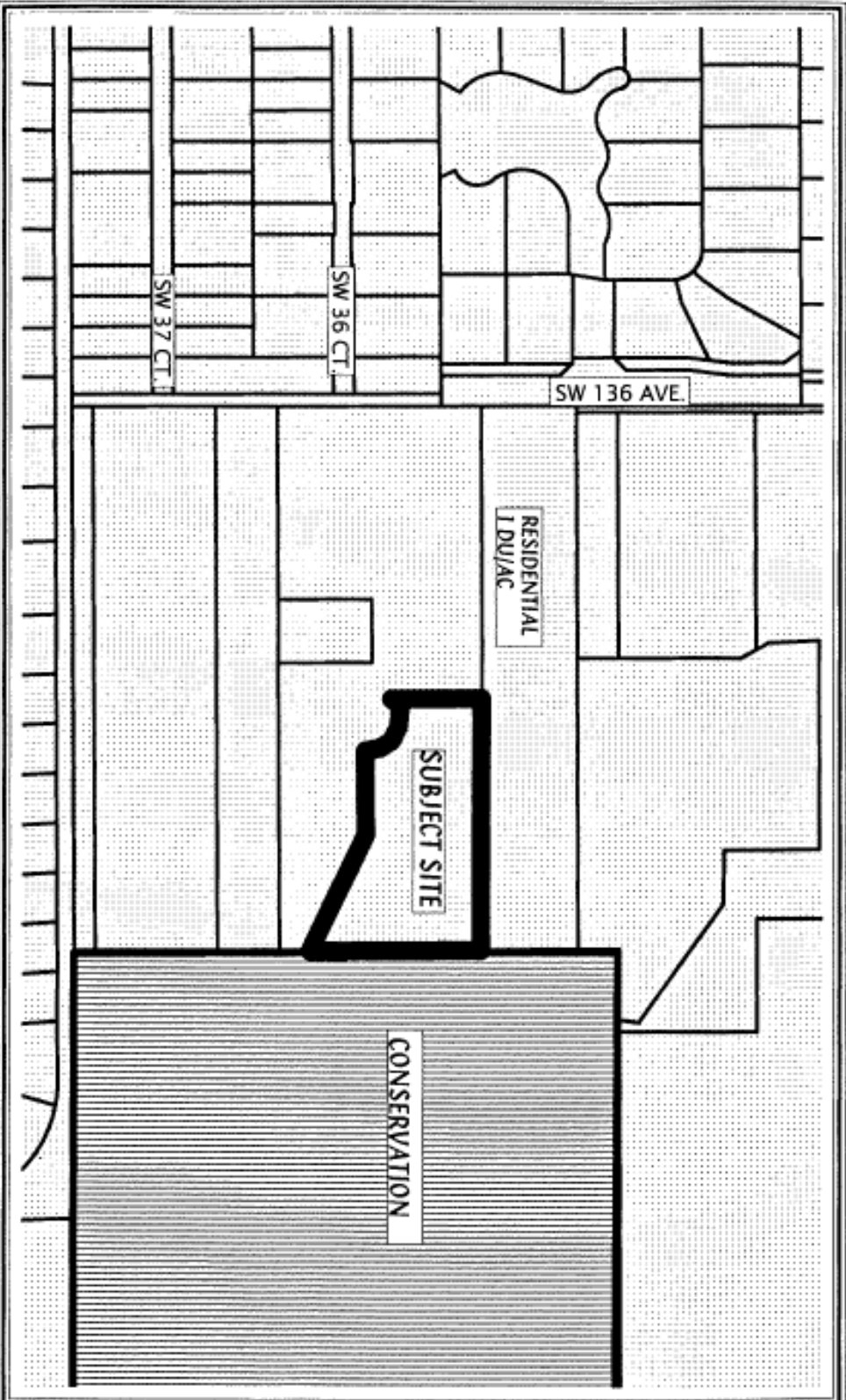
Zoning and Aerial Map

Date: Flown: January, 2001

Scale: 1"= 300'

Planning & Zoning Division - GIS

Prepared 5/14/02



PETITION NUMBER: V 4-3-02
FUTURE LAND USE MAP
Date: Flown: January, 2001
Scale: 1"= 300'
Planning & Zoning Division - GIS
Prepared 5/14/02